S.B.CIVIL WRIT PETITION NO.555/2005

Jorawar Singh
v.
State of Rajasthan & Ors.

Date of Order :: 7th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.G.Ojha, for the petitioner.
Mr. Shyam Ladrecha, Addl.G.A..

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By an order dated 3.2.1992 appointment was given to the petitioner as a Teacher Gr.III in pursuant to his regular selection by way of direct recruitment in accordance with the Rajasthan Education Subordinate Service Rules, 1971 (hereinafter referred to as “the Rules of 1971”). In pursuant to the order dated 3.2.1992 the petitioner joined services on 14.2.1992. As the appointment was given to the petitioner after 31st of December of the preceding year he was not allowed salary for summer vacations. After completion of summer vacations the petitioner continued in service as he joined the duties on 1.7.1992. The respondents while considering candidature of the petitioner for the purpose of grant of selection grade in accordance with the notification dated 7.8.1998 issued by Government of Rajasthan treated 1.7.1992 as date of his initial appointment and allowed selection grade w.e.f. 1.7.2002. Being aggrieved by the same this petition for writ is preferred.

It is contended that the petitioner was appointed in substantive capacity as a consequence to regular selection proceedings by order dated 3.2.1992 and in pursuant thereto he joined the service on 14.2.1992, as such the date of his initial appointment is 14.2.1992 and not 1.7.1992.

In reply to the writ petition it is stated by the respondents that the appointment of the petitioner was made after 31.12.1991, therefore, he was not entitled for getting salary during the period of summer vacations and he was deemed to be in service of the State Government w.e.f. 1.7.1992, as such the date of his initial appointment was rightly treated as 1.7.1992.

Heard counsel for the parties.

It is not at all in dispute that the appointment was given to the petitioner by way of direct recruitment as a consequence to regular selection proceedings conducted under the Rules of 1971 by order dated 3.2.1992 and the petitioner joined service in pursuant thereto on 14.2.1992, therefore, he became a substantive employee of Government of Rajasthan on 14.2.2002. The respondents did not allow salary for summer vacations to the petitioner under administrative instructions that prescribes that the persons employed after 31st December of the preceding

year shall not be given salary for the summer vacations. However, it does not change nature of appointment of the person so employed. As stated above, the petitioner was appointed as a Teacher Gr.III under the Rules of 1971 by order dated 3.2.1992, therefore, he is required to be treated as a substantive employee from the date he joined service i.e. 14.2.1992. The date of the initial appointment of the petitioner, therefore, is 14.2.1992 and not 1.7.1992 as considered by the respondents. I also do not find any reason to disallow salary to the petitioner for the period of summer vacations in the year 1992, merely on the count that an order of appointment was issued in that year only. The counsel for the State also failed to give any rational in giving salary for summer vacations to the petitioner.

Accordingly, this petition for writ is allowed. The respondents are directed to allow selection grade to the petitioner by considering 14.2.1992 as the date of his initial appointment in government service. The petitioner is also entitled for all other ancillary and consequential benefits including the salary for the period of summer vacations of 1992.

No order to costs.

( GOVIND MATHUR ),J.

kkm/ps.